MISCELLANY.

Rehearings.—In the following cases, petitions for rehearings are pending: Chambers *v.* City of Roanoke, Jan. 16, 1913; Norfolk & Portsmouth Traction Co. *v.* City of Norfolk, Jan. 16, 1913.

In the following cases, petitions for rehearings have been granted: Chesapeake & O. R. Co. *v.* Ruckman, 76 S. E. 278. Granted Jan. 16, 1913; United States *v.* Trigg, 75 S. E. 113. Granted Nov. 27, 1912.

Stories of English Law and Lawyers.—The prolixity of counsel has provoked much good-and-bad-humored interruption from the Bench.

In Mr. Justice Darling's court a few years ago, counsel, in cross-examining a witness, was very diffuse, and wasted much time. He had begun by asking the witness how many children she had, and concluded by asking the same question. Before the witness could reply, Justice Darling interposed with the suave remark: "When you began she had three."

Of the same genial order was the retort of Justice Wightman to Mr. Ribton, when that counsel, in addressing the jury, had spoken at some length, repeating himself constantly and never giving the slightest sign of winding up. He had been pounding away for several hours, when the good old judge interposed, and said, "Mr. Ribton, you've said that before." "Have I, my Lord," said Ribton, "I am very sorry; I quite forgot it." "Don't apologize, Mr. Ribton," was the answer. "I forgive you, for it was a very long time ago."

With these two creditable specimens of kindly, spontaneous humor, compare the remark of a United States judge, which was much praised in the press at the time it was made, but which in our opinion is far inferior to Justice Darling's impromptu. The American visited the Court of Appeal, and was invited by the late Lord Esher to take a seat on the bench. A certain Queen's Counsel was addressing the court. "Who is he?" asked the Yankee. "One of Her Majesty's Counsel," replied Lord Esher. "Ah," said the American, "I guess now I understand the words I have heard very often since I have been in your country, 'God Save the Queen.'"

Bethell, afterwards Lord Westbury, confessedly adopted as a ruling principle the maxim: "Never give in to a judge," and his overwhelming egotism enabled him to successfully carry off situations that would have brought a less fearless man to grief. All his sayings have a touch of bitterness and cynicism, and in reading those accounted most brilliant, one somehow feels that they savor of what might be termed colossal cheek rather than legitimate repartee. "Take a note of that," he once said in a stage aside to his junior. "His Lordship says he will turn it over in what he is pleased to call his mind." The discursive habits of Lord Justice Knight Bruce

he detested. "Your Lordship," he once pointedly cut short an observation of that judge by declaring, "Your Lordship wil hear my client's case first, and if your Lordship thinks it right, your Lordship can express surprise afterwards." And all the gratitude that fell to the successful suggestion of one of his juniors was the sotto voce remark, "I do believe this silly old man has taken your absurd point."—Central Law Journal.

Origin and History of Rate Regulation.—The principle of the right of a state or government to regulate carriers and rates for public services performed is not new, but seems to date back to a very ancient period. It goes at least as far back as about 2,250 years before the birth of Christ, to the reign of Hammurabi, the King of ancient Babylon, who had a complete code of laws for that time. Indeed, our laws of the present day have few underlying principles that do not seem to be contained in this primitive code. In it we read that, "If a man be on a journey and he give silver, gold, stones, or portable property to a man with a commission for transportation, and if the man do not deliver that which was to be transported where it was to be transported, but take it to himself, the owner of the transported goods shall call that man to account for the goods to be transported which he did not deliver, and that man shall deliver to the owner of the transported goods five-fold the amount which was given to him." The Code of Hummurabi (2d ed.), University of Chicago Press, 1904, § 112. Again, we read: "If a man hire an ox for a year, he shall give to its owner four Gur of grain as the hire of a draught ox, and three Gur of grain as the hire of an ox." Ib., §§ 242, 243. "If a man hire a sailboat, he shall pay 2½ SE of silver as its hire." Ib., § 276. "If a man hire oxen, a wagon, and a driver, he shall pay 180 KA of grain per day." Ib., § 271. "If a man hire a wagon only, he shall pay 40 KA of grain per day." Ib., § 272. "If he hire an ass to thresh, 10 KA of grain is its hire." Ib., § 269. Numerous other instances from this ancient code could be cited. So the principle of regulation is not new, but has come down to us from the ancients. Stephens *v.* Central of Georgia Ry. Co., 138 Ga. 625, 628.

Legal Reform.—It is not an exaggeration to say that this is an age of unprecedented public criticism of the law. The legal profession is under fire. "Legal reform" is a cry which seems to arise from all quarters of our nation. Law being a human institution, it must necessarily change as society changes. "The law," as the public terms it, is reluctant to admit this. Why should it impede its progress? It is a condition arising from human nature and is well explained by the Criminal Court of Appeals of Oklahoma: "Judges and lawyers have been educated in and are accustomed to an anti-

quated system of procedure, and have been taught to look with reverence upon old legal theories, and are thereby unduly biased against any change in legal procedure. The result is that, even when the Legislatures attempt to reform legal procedure, many courts and lawyers are disposed to construe such legislation in the light of their preconceived ideas. * * * While this court respects the wisdom of the past, and can see much in it to admire and to follow, yet we also believe that the world should be ruled by the living, and not by the dead; that the law should keep even step with the march of civilization and the necessities of society in the relation of its members to each other. * * * This court does not propose to grope its way through the accumulated dust, cobwebs, shadows, and darkness of the evening of the common-law rules of procedure, but it will be guided * * * by the increasing light and inspiration of the rising sun of reason, justice, common sense, and progress. "Turner *v.* State, 126 Pacific Reporter, 452. Apropos of this subject, the following by Hon. Charles Whiting of the Supreme Court of South Dakota is in point: "The man is blind indeed who calls out for the laws of our fathers, who even holds the fundamental laws of our land sacred, and not to be changed to meet changed conditions; such a one would cut his grain with the hand sickle, thresh it with a flail, grind it in the hollow of a rock, and still expect to fill the hungry mouths of increasing multitudes."

Lawyers Take Heed.—An undertone of impatience as well as a note of warning directed at lawyers by the Criminal Court of Appeals of Oklahoma is to be found in Anderson *v.* State, 126 Pacific Reporter, 840, 848. The court, in passing upon a question presented by counsel for defendant upon appeal from a conviction of murder wherein the death penalty was awarded, says: "Without disrespect to counsel for appellant, there is absolutely nothing in their contention. It simply shows to what desperate extremities lawyers are sometimes reduced in attempting to save and protect guilty men. It also shows how necessary it is for courts to go to the bottom of all questions presented. If lawyers would seriously consider the questions they present, and examine the authorities upon which they rely, and would brief them carefully before their cases are submitted, they would relieve this court of a vast amount of unnecessary labor, and greatly aid the court in disposing of the business before it. We do not object to doing the work, and always take great pleasure in the investigation of any legal question submitted to us for decision; but owing to the crowded condition of our docket, and the further fact that we are already worked to the limit of human endurance in deciding questions properly briefed, we feel that justice to the state requires that our time should not be taken up in investigating questions which have not been properly briefed."